

## **REMARKS/ARGUMENT**

### **Status of the Claims**

Claims 33-35, 38-44, 47-53, 56-59 and 61-81 are pending.

Claims 33-35, 38-41, 51-53, 56-59, 61-73 and 75-81 are rejected.

### **I. Specification**

Applicant amends the specification as requested by the examiner. The changes to the original specification by modification of the original paragraphs are presented to show the changes made. A substitute specification is attached as requested.

The changes to the specification does not constitute new matter because all changes to the specification were present in the originally filed claims 1-32. The courts have held that the information contained in the originally filed claims, abstract and drawings may amended into the specification and not be considered as prohibited new matter. Therefore entry of the amendments to the specification are requested as they are fully supported by the original filed application.

**II. Rejections Under 35 U.S.C. § 112, First Paragraph**

Claims 33-35, 38-41, 64-69, 70-73, 75-77 and 79-81 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter not described in the specification. Applicant addresses the rejections of claims through amendment of the specification. The amendment of the specification addresses the rejections. Applicant respectfully requests reconsideration and removal of the rejections.

**III. Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claims 33-35, 38-41, 64-69, 70-73, 75-77 and 79 and 81 are rejected under 35 U.S.C. § 112, second paragraph, as containing subject matter not described in the specification. Applicant addresses the rejections of claims through amendment of the claims. The term agents are supported by the specification. Applicant respectfully requests reconsideration and removal of the rejections.

**IV. Rejections Under 35 U.S.C. § 102/35 U.S.C. § 102**

Claims 64-66 stand rejected under 35 U.S.C. § 102(a) as being anticipated or in the alternative obvious over Saavedra et al (5,632,981). Applicant traverses the rejection of claims 64-66 because Saavedra does not teach

the use of L-arginine or its derivatives that uses the bodies own mechanisms to create nitric oxide to treat the claimed conditions. Therefore it is an improper rejection because it fails to teach each and every element.

Furthermore, the claim is a method claim and not a product by process claim and thus the examiner's citation of Graham v. Deer is moot.

#### **V. Rejections Under double patenting**

Claims 33-35, 38-41, 51-53, 56-59 and 61-81 are rejected under the doctrine of obviousness-type double patenting over claims 1-11 of U.S. patent no. 6,207,713. Applicant respectfully requests removal of the double patenting rejection as the '713 patent fails to teach the method of growing hair, treating impotence or healing ulcers.

**VI Conclusion**

Based on the foregoing, it is respectfully requested that all rejections be withdrawn and the application be passed to issue.

ENC: SUBSTITUTE  
SPECIFICATION

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The undersigned hereby certifies that this paper along with any paper or document referred to therein as being attached or enclosed, is being transmitted to the Commissioner for Patents, Mail Stop Non-Fee Amendment, P.O. Box 1450, Alexandria, VA 22313-1450- This 26th day of MARCH 2004.

  
Jeffrey D. Washville